

## Nuclear Regulatory Commission

## § 81.30

(1) The nonexclusive license will be revocable, at the option of the Commission, if the licensee does not comply with all the terms and conditions of the license agreement.

(2) The duration of the license shall be for a specified period and/or such additional period as may be provided for in the license agreement.

(3) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license agreement, or as the period may be extended by the Commission, and then to continue to make the benefits of the invention reasonably accessible to the public.

(4) The license shall be granted for all of the fields of use of the invention, or only such fields of use as may be specified in the license agreement, and throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia or in any lesser geographic portion thereof as may be specified in the license agreement.

(5) The licensee shall be required to submit periodic reports on his efforts to bring the invention to a point of practical application and the extent to which he continues to make the benefits of the invention reasonably accessible to the public. Unless otherwise specified in the license, such periodic reports will be required annually prior to the anniversary date of the grant of the license. The reports shall contain information within the licensee's knowledge, or which the licensee may acquire under normal business practices, pertaining to the commercial use being made of the invention, and other information which the Commission may determine to be pertinent to the licensing activity of the Commission and specified in the license agreement.

(6) Normally a royalty shall not be charged U.S. citizens and U.S. corporations for nonexclusive licenses on NRC inventions.

(7) The license may extend to wholly-owned subsidiaries of the licensee but shall be nonassignable, or otherwise nontransferable, without approval of the Commission.

(8) The Commission may revoke the license (i) for failure of the licensee to

bring the invention to the point of practical application or to continue to make the benefits of the invention reasonably accessible to the public, (ii) if the licensee defaults in making any periodic report required by the license, or (iii) if the licensee commits any breach of any covenant or agreement therein contained, or (iv) if the licensee willfully makes, or has made, a false statement of a material fact or omitted a material fact in the license application submitted pursuant to § 81.40(a) or in any report required by the license agreement.

(9) The Commission may restrict the licensee to the particular fields of use and/or geographical areas in which the licensee has brought the invention to the point of practical application and continue to make the benefits of the invention reasonably accessible to the public.

(10) Before revoking or restricting any license granted pursuant to this subpart, the Commission shall mail to the licensee and any sublicensee of record, at the last address filed with the Commission, a written notice of the Commission's intention to revoke or restrict the license, and the licensee and any sublicensee shall be allowed thirty (30) days after the mailing of such notice, or within such period as may be granted by the Commission, to remedy any breach of any covenant or agreement as referred to in paragraph (a)(8)(iii) of this section, or to show cause why the license should not be revoked or restricted.

(11) Subject to the rights reserved to the Government in this section, the licensee shall be granted the nonexclusive rights to make, use, and/or sell the invention in accordance with the terms and conditions specified in the license agreement.

(12) The license may be subject to such other terms and conditions as the Commission may deem in the public interest.

### § 81.30 Limited exclusive licenses.

(a) An NRC invention may be made available for the grant of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to

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§81.13 for a period of at least six (6) months.

(2) The Commission has determined that (i) the invention may be brought to the point of practical application in certain fields of use or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development.

(3) Notice of the selection of a prospective licensee to be granted a limited exclusive license of a specified duration and scope shall have been transmitted to the Attorney General of the United States and shall have been published for at least sixty (60) days in the FEDERAL REGISTER with a statement advising of the rights of license applicants or third parties to apply for nonexclusive licenses or bring information to the attention of the Commission under the next paragraph.

(4) After expiration of the period in paragraph (a)(3) of this section, the Commission has determined (i) that no applicant for a nonexclusive license has brought or will bring the invention to the point of practical application as specified in the prospective exclusive license within a reasonable period under a nonexclusive license, and (ii) that the granting of the license would be in the public interest and not be inconsistent with the Act after consideration of all the facts and any written evidence and argument which third parties may present to the Commission within sixty (60) days of the publication of the notices of the selection of the licensee under paragraph (a)(3) of this section.

(5) The Commission shall record and make available for public inspection, upon request, all decisions and the basis thereof under this section.

### §81.31 Selection of an exclusive licensee.

An exclusive licensee will be selected by the Commission on bases consistent with the policy set forth in §81.11 of this subpart in accordance with the

procedures herein, based upon the information supplied to the Commission in a license application under §81.40. Consideration will be given to: (a) The capabilities of the applicant to further the technical and market development of the invention to bring the same to the point of practical application, (b) the applicant's plan to undertake development of the invention, (c) the projected impact on competition, (d) the benefit to the Government and the public, as well as (e) assistance to small business and minority business enterprises and economically depressed, low income and labor surplus areas, and (f) whether the applicant is a U.S. citizen or corporation.

### §81.32 Terms of exclusive license grant.

(a) NRC inventions may be made available for the grant of limited exclusive licenses to responsible applicants who will bring the invention to the point of practical application and make its benefits reasonably accessible to the public.

(1) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia, or any lesser geographical portion thereof.

(2) The duration of the license will be negotiated and shall include (i) a period of exclusivity specified in the license, which shall be related to the period necessary to provide a reasonable incentive for the licensee to invest the necessary risk capital to bring the invention to the point of practical application and which shall not exceed 5 years or be extended unless the Commission determines on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his investment in bringing the invention to the point of practical application; and (ii) a terminal portion, sufficient to make the invention reasonably available for the granting of nonexclusive licenses under §81.20, during which the licensee may have a nonexclusive license if the licensee continues to